

City of Las Vegas

AGENDA MEMO

PLANNING COMMISSION MEETING DATE: JANUARY 24, 2008

DEPARTMENT: PLANNING AND DEVELOPMENT

ITEM DESCRIPTION: VAR-25988 - APPLICANT/OWNER: PECOS PARTNERS, LLC

**** CONDITIONS ****

STAFF RECOMMENDATION: DENIAL. If Approved, subject to:

Planning and Development

1. Approval of and conformance to the Conditions of Approval for and Site Development Plan Review (SDR-25991) shall be required.
2. This approval shall be void two years from the date of final approval, unless a certificate of occupancy has been issued or upon approval of a final inspection. An Extension of Time may be filed for consideration by the City of Las Vegas.

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**** STAFF REPORT ****

PROJECT DESCRIPTION

The project is a request for a Variance to allow a proposed 7,250 square foot commercial building to have a 58.5-foot Residential Adjacency Setback where 66 feet is the minimum required on .91 acres adjacent to the south side of Owens Avenue, approximately 295 feet west of Pecos Road.

The project will result in a structure that does not adequately address Title 19.08 Residential Adjacency Standards with regard to the required building setback from residential property. Staff recommendation is denial.

BACKGROUND INFORMATION

| <i>Related Relevant City Actions by P&D, Fire, Bldg., etc.</i> | |
|--|--|
| 03/22/61 | The Board of City Commissioners approved a rezoning (Z-0007-61) of this site to C-1 (Limited Commercial). |
| 04/19/2000 | The City Council approved a request for a Variance (V-0101-99) on property located on the southwest corner of Owens Avenue and Pecos Road to allow a 20 foot rear and side yard setback where residential adjacency standards require a 60 foot side and rear yard setback. |
| 04/19/2000 | The City Council approved a request for a Special Use Permit (U-0150-99) on property located on the southwest corner of Owens Avenue and Pecos Road FOR the sale of gasoline and the off-premise sale of beer and wine in conjunction with a proposed convenience store. |
| 04/19/2000 | The City Council approved a request for a Special Use Permit (U-0151-99) on property located on the southwest corner of Owens Avenue and Pecos Road to allow the off-premise sale of packaged liquor in conjunction with a proposed drug store. |
| 11/07/2001 | The City Council voted to withdraw without prejudice a request for a Variance (V-0053-01) to allow a 20 foot rear and side yard setback where residential adjacency requires a minimum rear and side yard setback of 66 feet on the southwest corner of the intersection of Pecos Road and Owens Avenue. |
| 06/21/2006 | The City Council approved a request for a Site Development Plan Review (SDR-10497) for a proposed 29,800 square foot commercial development and waivers of the parking lot and foundation landscaping requirements on 3.02 acres approximately 300 feet west of Pecos Road on Owens Avenue. (Note: amended application is from a proposed 29,800 square foot commercial development to a 24,000 square foot commercial development with waivers of the building placement standards. |

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| 11/17/2007 | The City Council approved request for a Site Development Plan Review (SDR-23581) for a proposed 14,028 square foot general retail store with a waiver of perimeter landscape standards to allow a zero foot landscape buffer where eight feet is required along the east property line on 2.57 acres adjacent to the south side of Owens Avenue, approximately 295 feet west of Pecos Road. |
| 10/17/2007 | The City Council approved a request for a Variance (VAR-23585) to allow a 50-foot residential adjacency setback where 73 feet is the minimum required on 2.57 acres adjacent to the south side of Owens Avenue, approximately 295 feet west of Pecos Road. |
| 10/17/2007 | The City Council approved a request for a Variance (VAR-23588) to allow 71 parking spaces where 81 spaces is the minimum required on 2.57 acres adjacent to the south side of Owens Avenue, approximately 295 feet west of Pecos Road. |
| 10/17/2007 | The City Council approved a request for a Special Use Permit (SUP-23593) for a proposed retail establishment with accessory package liquor off-sale on 2.57 acres adjacent to the south side of Owens Avenue, approximately 295 feet west of Pecos Road. |
| <i>Related Building Permits/Business Licenses</i> | |
| There are no permits or business licenses at this time. | |
| <i>Pre-Application Meeting</i> | |
| 12/07/07 | Project needs a Variance for Residential Adjacency Standards. Parapet is 22 feet high and that portion of the building is shown 58.5 feet from a single family development property line, where 66 feet is needed. |
| <i>Neighborhood Meeting</i> | |
| A neighborhood meeting is not required, nor was one held. | |

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| <i>Field Check</i> | |
| 12/27/07 | Currently this parcel is undeveloped. |

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|---------------------------------------|------|
| <i>Details of Application Request</i> | |
| <i>Site Area</i> | |
| Net Acres | 0.91 |

| Surrounding Property | Existing Land Use | Planned Land Use | Existing Zoning |
|----------------------|--|----------------------------|----------------------------|
| Subject Property | Undeveloped | SC: Service Commercial | C-1: Limited Commercial |
| North | Clark County – Single family residential | Clark County – Residential | Clark County - Residential |

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|-------|---------------------------|----------------------------|--------------------------------|
| South | Single family residential | L: Low Density Residential | R-1: Single family residential |
| East | Commercial | SC: Service Commercial | C-1: Limited Commercial |
| West | Single family residential | L: Low Density Residential | R-1: Single family residential |

| <i>Special Districts/Zones</i> | <i>Yes</i> | <i>No</i> | <i>Compliance</i> |
|--|------------|-----------|-------------------|
| Special Area Plan | | X | NA |
| <i>Special Districts/Zones</i> | <i>Yes</i> | <i>No</i> | <i>Compliance</i> |
| Special Purpose and Overlay Districts | | X | NA |
| Trails | | X | NA |
| Rural Preservation Overlay District | | X | NA |
| Development Impact Notification Assessment | | X | NA |
| Project of Regional Significance | | X | NA |

ANALYSIS

The project proposes a non-residential (commercial/retail) use next to an existing developed single family residential community. The building height of 22 feet, in accordance with the 3:1 Proximity Slope and Building setback requirements of Title 19.08 RAS, must provide a 66 foot setback from the residential property line, where a 58.5 foot setback is shown from the west property line. Furthermore, the elevations do not include any architectural features that could reduce potential visual effects that neighboring residences may experience from the proposed structural footprint as designed.

FINDINGS

In accordance with the provisions of Title 19.18.070(B), Planning Commission and City Council, in considering the merits of a Variance request, shall not grant a Variance in order to:

1. Permit a use in a zoning district in which the use is not allowed;
2. Vary any minimum spacing requirement between uses;
3. Relieve a hardship which is solely personal, self-created or financial in nature.”

Additionally, Title 19.18.070L states:

“Where by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of enactment of the regulation, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of the piece of property, the strict application of any zoning regulation would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardships

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upon, the owner of the property, a variance from that strict application may be granted so as to relieve the difficulties or hardship, if the relief may be granted without substantial detriment to the public good, without substantial impairment of affected natural resources and without substantially impairing the intent and purpose of any ordinance or resolution.”

No evidence of a unique or extraordinary circumstance has been presented, in that the applicant has created a self-imposed hardship by proposing a non-residential use with a building height subject to the Residential Adjacency Standards of Title 19.08. An alternative design that reduces the building height and/or observes the required building setback from the residential property line would allow conformance to the Title 19 requirements. In view of the absence of any hardships imposed by the site’s physical characteristics, it is concluded that the applicant’s hardship is preferential in nature, and it is thereby outside the realm of NRS Chapter 278 for granting of Variances.

NEIGHBORHOOD ASSOCIATIONS NOTIFIED

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ASSEMBLY DISTRICT 28

SENATE DISTRICT 2

NOTICES MAILED 494

APPROVALS 0

PROTESTS 1